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# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Oil Gas and Mining

JOHN R. BAZA  
Division Director

July 22, 2008

CERTIFIED RETURN RECEIPT  
7005 2570 0000 4801 7307

Lon Thomas  
Star Stone Quarries, Inc.  
4040 south 300 West  
Salt Lake City, UT 84107

Subject: Proposed Assessment for Notice of Violation #MN-2008-41-03, Star Stone Quarries, Inc., Torrey Quarry, M/055/016, Wayne County, Utah

Dear Mr. Thomas

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced Notice of Violation (NOV). The NOV was issued by Division Inspector, Paul Baker, on June 26, 2008. Rule R647-7-103 et. seq. has been utilized to formulate the proposed penalty for the NOV as follows:

- MN-2008-41-03      **\$528.00**

The enclosed worksheet specifically outlines how the violation was assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this NOV has been considered in determining the facts surrounding the violation and the amount of penalty. If the violation has not been abated at the time of the proposed assessment, the assignment of good faith points cannot be made. If you feel that you are eligible for good faith, you should supply relevant information to the assessment officer within 15 days of the violation abatement date so that it can be factored into the final assessment. A reassessment will be completed and sent to you upon termination of the NOV.



Under R647-7-106, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of the violation, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director, Associate Director or appointed Conference Officer. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph one, the assessment conference will be scheduled immediately following that review.

**If a timely request for review is not made, the fact of the violation will stand, the proposed penalty(ies) will become final (after factoring in any good faith points upon termination), and the penalty(ies) will be due and payable within thirty (30) days of the final assessment.** If you wish to appeal either the fact of the violation or the proposed penalty assessment, please provide a written request for such appeal to Vickie Southwick at the Division. Otherwise, please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,



Lynn Kunzler  
Assessment Officer

LK/vs

Enclosure: Worksheet

cc: Vickie Southwick, Exec. Sec.  
Vicki Bailey, Accounting

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**WORKSHEET FOR ASSESSMENT OF PENALTIES**  
**DIVISION OF OIL, GAS & MINING**  
**Minerals Regulatory Program**

COMPANY / MINE Star Stone Quarries, Inc./Torrey Quarry PERMIT M/055/0016  
NOV / CO # NM-2008-41-03

ASSESSMENT DATE July 22, 2008

ASSESSMENT OFFICER Lynn Kunzler

**I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)**

- A. Are there previous violations, which are not pending or vacated, which fall within three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>None</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>

**TOTAL HISTORY POINTS 0**

**II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)**

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event  
(assign points according to A or B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?

***Environmental Harm, Water Pollution***

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS** 12

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *Inspector indicated that it was likely runoff would occur from most any storm. Without sediment control, it is expected sediment would leave the area. Inspector also indicated that he did not observe the occurrence of the event. Points assigned at midpoint of the lower half of the 'likely' range.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

**ASSIGN DAMAGE POINTS** 4

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *No damage has occurred, however there is some potential for damage. Points assigned midpoint of lower 1/4 of range.*

**B. ADMINISTRATIVE VIOLATIONS (Max 25pts)**

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? NA  
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS** N/A

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\*

**TOTAL SERIOUSNESS POINTS (A or B)** 16

**III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)**

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 8

**PROVIDE AN EXPLANATION OF POINTS:**

**\*\*\*** *The inspector indicated that this was in violation of a permit condition. Operator had been informed during previous inspection of the need to construct the sediment pond.. Points are assigned at midpoint of the Negligence range.*

**IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)**

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?  
IF SO--EASY ABATEMENT

Easy Abatement Situation

X	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
X	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	0
	(Operator complied within the abatement period required)	
	(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)	

\*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- |   |   |             |
|---|---|-------------|
| X | Rapid Compliance  | -11 to -20* |
|   | (Permittee used diligence to abate the violation)   |             |
| X | Normal Compliance   | -1 to -10*  |
|   | (Operator complied within the abatement period required)  |             |
| X | Extended Compliance   | 0           |
|   | (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete) |             |
|   | (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)   |             |

EASY OR DIFFICULT ABATEMENT? EASY Abatement

ASSIGN GOOD FAITH POINTS --

**PROVIDE AN EXPLANATION OF POINTS:**

**\*\*\*** *The abatement for this violation has not been completed yet so good faith points cannot be assigned. The assignment of good faith can occur once the abatement requirements have been met and is contingent upon the Operator's diligence in achieving compliance. This will be evaluated again upon termination of the Cessation Order.*

**V. ASSESSMENT SUMMARY (R647-7-103.3)**

NOTICE OF VIOLATION # <u>MC-06-03-07-01</u>	
I. TOTAL HISTORY POINTS	<u>0</u>
II. TOTAL SERIOUSNESS POINTS	<u>16</u>
III. TOTAL NEGLIGENCE POINTS	<u>8</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>
TOTAL ASSESSED POINTS	<u>24</u>
TOTAL ASSESSED FINE	<u>\$ 528</u>